IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION (L) NO.37 OF 2007

IN

CHAMBER SUMMONS NO.140 OF 2007

IN

SUIT NO.793 OF 2007

Jasmine K. Gandhi ...Petitioner

v/s

Perviz N. Gandhi and anr. ...Respondents

Petitioner in person present.

Mr S.J. Kathawala with Ms Azim Irani i/b M/s Mulla and Mulla and Craigie Blunt and Caroe for Respondents.

CORAM : D.K. DESHMUKH J.

DATE : 24TH APRIL 2007.

P.C. :-

1. By this petition, the petitioner alleges that the respondents have wilfully violated the order made by the learned Single Judge of this Court dated 2nd February 2007 in chamber summons No.140 of 2007. According to the petitioner, by that order, interim relief in terms of prayer clauses (VIII) and (XII) of the chamber summons has been granted in favour of the petitioner. Prayer clauses (VIII) and (XII) of the chamber summons read as under :-

> "(VIII) that the plaintiff and defendant No.6 should be restrained to make any attempts to liquidate the Trust accounts in Bank of India and Central Bank of India where defendant No.6 land myself are the beneficiaries even in connivance with Cyrus Balsara;
>
> (XII) that pending the hearing and final disposal of the suit, this Hon'ble Court be pleased to injunct by order of temporary injunction restraining the plaintiff, defendant No.6 in connivance with Cyrus Balsara, their

servants, agents and family members from threatening the defendant Nos.1 to 5, their servants, employees, friends and relatives of the defendants;"

. Perusal of the order dated 2nd February 2007 shows that though the learned Single Judge has recorded the need of granting interim relief in terms of prayer clauses (VIII) and (XII), in the order the learned Single Judge has not stated that interim relief in terms of prayer clauses (VIII) and (XII) is granted. Perusal of prayer clause (XII) shows that it is in such a wide term that it is difficult to believe that any Court will grant interim relief in such terms. Not only interim injunction restraining the plaintiff and defendant No.6 is sought but also against their servants, agents, family members is sought. One can understand an injunction being sought against servants and agents, but one cannot understand an injunction being sought against family members without joining them as a party. What is further to be seen here is that the temporary injunction is sought not only in favour of defendant Nos.1 to 5 but in favour of their servants, employees, friends and relatives also. One can understand a temporary injunction being sought in favour of the parties to litigation as also their agents and servants, but by

that prayer clause temporary injunction is sought in favour of friends and relatives of the defendants. It is hard to believe that the Court has granted temporary injunction in such wide terms. Even assuming that injunction in such wide terms has been granted by the Court, perusal of the petition shows that it is alleged in the petition that the defendant No.4 had gone to walk his dog in the compound at night and at that time one person with a lathi hit him on head and told him that if his parents do not withdraw the case and allegations against the plaintiff, defendant No.6 Cyrus Balsara, Mr Autia, his subordinates, he will kill defendant No.4's parents. Then it is alleged that one Mr Dinshaw Bhiwandiwala came there and he saw one Munnabhai (goonda) of Cyrus Balsara and plaintiff running with lathi in hands. On the basis of these allegations, it is stated that the respondents have wilfully disobeyed the order of this Court. There is nothing on record connecting the alleged Munnabhai with the respondents. The proceedings for civil contempt are summary proceedings. Therefore, if defendant No.4 has been assaulted, in my opinion, it is a matter to be investigated by the criminal Court. It will not be appropriate for a Court hearing contempt petition to entertain such petitions. It appears that there is intense rivalry and bad relations among the parties and contempt jurisdiction of this Court is being attempted

to be misused to settle scores. In my opinion, entertaining such petition would amount to defeating justice. Contempt petition is disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.